

1 Esha Bandyopadhyay (Bar No. 212249)
bande@perkinscoie.com
2 Perkins Coie LLP
101 Jefferson Drive
3 Menlo Park, California 94025-1114
Phone: (650) 838-4300
4 Fax: (650) 838-4350

5 Scott T. Wilsdon (*pro hac vice*)
wilson@yarmuth.com
6 Jeremy E. Roller (*pro hac vice*)
jroller@yarmuth.com
7 Yarmuth Wilsdon Calfo PLLC
925 Fourth Avenue, Suite 2500
8 Seattle, Washington 98104
Phone: (206) 516-3800
9 Fax: (206) 516-3888

10 Attorneys for Plaintiff
MICROSOFT CORPORATION

11
12 UNITED STATES DISTRICT COURT
13 NORTHERN DISTRICT OF CALIFORNIA

14 MICROSOFT CORPORATION, a
15 Washington corporation,

16 Plaintiff,

17 v.

18 INTRAX GROUP, INC., d/b/a, SURPLUS
COMPUTERS, a California corporation;
19 MICHAEL MAK, an individual; and JOHN
DOES 1-5,

20 Defendants.

No. 07-CV-01840-CW

DECLARATION OF DEBORAH M.
JOHNSON IN SUPPORT OF PLAINTIFF
MICROSOFT CORPORATION'S
MOTION FOR SUMMARY JUDGMENT

21
22 I, Deborah M. Johnson, hereby declare as follows:

23 1. I am a Paralegal at the law firm of Yarmuth Wilsdon Calfo PLLC, counsel of
24 record for the Plaintiff Microsoft Corporation in this matter. I make this Declaration based on
25 personal knowledge and, if called to testify, could and would testify competently to the facts
26 set forth herein.
27

1 2. On June 25, 2008, defendant Michael Mak ("Mr. Mak") was deposed in this
2 matter. True and correct copies of Mr. Mak's deposition transcript ("Mak Dep.") and
3 excerpts from exhibits to that deposition (cited in Microsoft's Memorandum in Support of
4 Motion for Summary Judgment) are attached hereto as Exhibit 1.

5 3. In his deposition, Mr. Mak repeatedly testified that a signature on certain
6 Surplus Computers purchase orders for Microsoft products was his. *See, e.g.*, Mak Dep. at
7 133:17; 134:19, 21, 22; 138:19; 142:11; 143:24; 147:11; 150:6; and 155:17, 20, 24. Including
8 those documents that Mak admitted signing at his deposition, I have observed what appears to
9 be the same signature on approximately 145 Surplus Computers purchase orders for Microsoft
10 products. In the interest of not overburdening the Court with excessive papers, aside from
11 those purchase orders Mr. Mak identified as being marked with his signature at his deposition,
12 the purchase orders apparently bearing Mr. Mak's signature are not attached here.

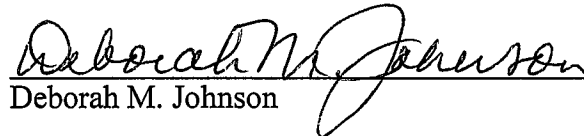
13 4. Defendant Intrax Group, Inc. filed a Chapter 11 Bankruptcy Petition in
14 September of 2007. That proceeding is captioned *In re Intrax Group, Inc.*, No. 07-52783
15 RLE (Bankr. N.D. Cal.). Microsoft has filed a claim in Intrax's bankruptcy proceedings and,
16 in March of 2008, obtained an order from the Bankruptcy Court requiring Intrax to produce
17 certain documents. A true and correct copy of that order is attached hereto as Exhibit 2.
18 Intrax has partially complied with that order. Despite repeated requests for Intrax's full
19 compliance (true and correct copies of some of those requests are attached hereto as Exhibit
20 3), Intrax has not yet produced all of the documents required by the Bankruptcy Court. True
21 and correct copies of July 3, 2008 and July 8, 2008 emails from Intrax's bankruptcy counsel
22 explaining the delay are attached hereto as Exhibit 4.

23 5. Attached hereto as Exhibit 5 is a true and correct copy of an Order Granting
24 Motion for Partial Summary Judgment dated May 5, 2008, in the matter *Microsoft Corp. v.*
25 *EEE Business, Inc., et al.*, No. C 07-01839 JSW (N.D. Cal.). Attached hereto as Exhibit 6 is a
26 true and correct copy of a CM/ECF minute entry in the matter *Microsoft Corp. v. Global*
27 *Online Distribution, LLC, et al.*, No. 2:07-cv-00420 (D. Nev.). Attached hereto as Exhibit 7

1 is a true and correct copy of an Order Granting Microsoft's Motion for Preliminary Injunction
2 dated January 25, 2008, in the matter *Microsoft Corp. v. Technology Enters., LLC, et al.*, No.
3 06-CIV-22880-HOEVELER/BROWN.
4

5 I declare under penalty of perjury that the foregoing is true and correct.
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7 DATED this 10th day of July, 2008.
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10 Deborah M. Johnson
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CERTIFICATE OF SERVICE

I hereby certify that the foregoing document was served upon the following parties, by the means designated below, this 10th day of July, 2008:

Steven A. Dillick
Law Offices of Steven A. Dillick
One Maritime Plaza, Suite 1040
San Francisco, CA 94111
Phone: 425-399-8777
Email: sdillick@ix.netcom.com
Counsel for Defendants

- ☐ U.S. Mail
- ☐ FedEx
- ☐ Hand-Delivery
- ☐ Facsimile
- ☐ Email
- ☒ ECF Electronic Filing

/s/ Jeremy E. Roller

Scott T. Wilsdon (*pro hac vice*)

Jeremy E. Roller (*pro hac vice*)

YARMUTH WILSDON CALFO PLLC

Attorneys for Plaintiff **MICROSOFT
CORPORATION**